

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SIPCO LLC; and ADVANCED SENSOR  
TECHNOLOGY, INC.,

Plaintiffs,

vs.

THE TORO COMPANY, JLH LABS,  
LLC, and JASON HILL,

Defendant.

Civil Action No. 08-CV-00505-TJS

**DECLARATION OF R. LAWRENCE BUCKLEY**

I, R. Lawrence Buckley, declare as follows:

1. I am an attorney employed by The Toro Company ("Toro"). My title is Division Counsel, and I am responsible, among other things, for intellectual property issues concerning Toro's Irrigation and Commercial Divisions, as well as the Toro Center for Advanced Turf Technology.

2. Toro is a Minnesota-based company that manufactures, distributes, and sells lawn care and irrigation equipment for residential, commercial, and professional customers. Through the decades since its beginning in 1914, Toro has become a global leader in turf maintenance equipment and precision irrigation systems. Toro relies on a strong sales, service and support network that includes distributors, dealers, and retailers.

3. Toro's irrigation product line generally focuses on controllers, valves, and sprinkler heads. Toro in recent years has complemented its line with several wireless products, including a wireless satellite controller for golf course irrigation and a wireless rain sensor for

residential use.

4. Toro recently expanded its wireless product offering by the purchase of Turf Guard from JLH Labs, LLC. Turf Guard is a wireless soil sensor system that complements the rest of Toro's irrigation products. It permits end-users, in this case golf course superintendents and related individuals, to manage their water needs with greater specificity. While Toro's acquisition of Turf Guard closed on or about December 6, 2007, and Turf Guard became a new Toro product, Turf Guard had been on the market for well over a year before then. The acquisition and due diligence included the evaluation of the intellectual property related to Turf Guard, as well as a thorough freedom to operate analysis.

5. Toro participates every year at the Golf Industry Show, held in 2008 from January 31 through February 2, and the show is a critical event to suppliers to the golf course industry to introduce new products. At the 2008 Show, Toro released its new Turf Guard product. Toro released Turf Guard at the Golf Industry Show because it provides maximum exposure for Toro's new product.

6. Advanced Sensor Technology, Inc. ("AST") is a competitor of Toro and sells its own soil monitoring system. AST circulated a press release in the marketplace on or about January 22, 2008, right before the Golf Industry Show. Attached as Exhibit 1 is a true and correct copy of that press release.

7. On or about January 24, 2008, AST disseminated a second market communication, which, on information and belief and based upon its language, went to all end-users or potential end-users of wireless soil monitoring systems, such as Toro's Turf Guard product. Attached as Exhibit 2 is a true and correct copy of that market communication. Neither this market communication, nor that released on January 22, 2008, identified the patent to which

AST had supposedly acquired exclusive rights.

8. In addition to the AST market communications regarding its newly-acquired patent rights of an unidentified patent, AST circulated an invitation to an "exclusive reception" for the evening of January 31, 2008, after conclusion of the first day of the Golf Industry Show. Attached as Exhibit 3 is a true and correct copy of the invitation. In addition, AST representatives stuffed flyers under the hotel room doors of people attending the Golf Industry Show, including distributors of Toro products and end-users of Toro products. Attached as Exhibit 4 are true and correct copies of those flyers.

Pursuant to 28 U.S.C. § 1746, I further declare under penalty of perjury that the foregoing is true and correct.

Dated: January 12, 2009

  
R. Lawrence Buckley

# Exhibit 1



**NEWS RELEASE**  
**For Immediate Release**

**Wireless Patent Gives Advanced Sensor Technology Exclusive  
Licensing Rights of Soil Monitoring Systems**

**King of Prussia, Pa.** (January 22, 2008) – Advanced Sensor Technology, Inc., the pioneer and premier provider of wireless soil sensing technology, announced it has acquired the exclusive rights under a key U.S. patent on wireless data transmission in the field of soil monitoring. This key patent is fundamental to the wireless monitoring of soil in golf courses and similar applications and, as a result, companies without permission can not legally sell or use wireless soil sensing equipment using this essential technology.

"The patent is a significant piece of intellectual property to our growing technology platform, providing unique competitive advantages. As we continue to grow, AST will enforce its rights against any infringers of this patent and other patents we own or license," said Walt Norley, founder and CEO of Advanced Sensor Technology. "More importantly, we will continue to focus our attention on customers in providing the golf course industry with the most advanced root zone monitoring systems and agronomic support."

At a time when an increasing number of superintendents are facing critical water management and conservation issues, Advanced Sensor Technology is the first and only company to provide a system, RZ-Wireless, that can reduce water usage by monitoring essential information in the soil.

The RZ-Wireless system uses proprietary sensors at varying depths within the root zone to accurately measure soil moisture, temperature and salinity. The sub-surface data from each sensor is collected across all areas of the course and transmitted to centralized control software, providing superintendents with a precise micro-climate reading of their course. Superintendents can then use the data to manage turf conditions, establish thresholds and control external devices.

"With RZ-Wireless, superintendents can respond to moisture, temperature and salinity issues on a real-time basis and evaluate trending of these critical variables, ultimately leading to water savings and healthier turf. One desert user reported a 25 percent drop in water usage which provided a return on his investment in less than two years," explained Norley. "As water usage becomes more restrictive and expensive, information provided by the RZ-Wireless system will prove to be as essential to golf course management as it is cost-effective."

For more information about RZ-Wireless, visit [www.advancedsensors.com](http://www.advancedsensors.com).

**About the Company**

Advanced Sensor Technology is the first and only company to use wireless soil sensing technology in the RZ-Wireless system to monitor moisture, salinity and temperature. Significant benefits of RZ-Wireless include water savings and enhanced turf quality.

In addition to RZ-Wireless, AST also offers the remediation system RZ-Aer, which is a sub-surface aeration system that automatically controls moisture and oxygen levels in the root zone using sensor data and pre-set thresholds. With this tool, golf course superintendents have an effective treatment method to assure high playability standards can be reached and maintained, even in the face of unpredictable, changing weather conditions. The end result is healthier grass and faster, firmer, more consistent putting surfaces. For more information, visit [www.advancedsensors.com](http://www.advancedsensors.com).

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**Buckley  
Exhibit 1**

TOR0055765

# Exhibit 2



## If You Are Considering...

**I.** If you are considering the use of wireless soil monitoring systems, here's something you need to know!

**II.** A recently acquired key U.S. patent on wireless data transmission gives Advanced Sensor Technology exclusive licensing rights of soil monitoring systems. As a result:

- The industry's first and premier soil sensing system, RZ-Wireless, will continue to meet the wireless soil monitoring needs of the golf and turf industry.
- **WARNING** – Because companies without permission can not legally sell or use wireless soil sensing equipment using the essential technology, using a wireless soil sensing technology other than RZ-Wireless is likely infringing on this key patent.\*\*
- To read the news release announcing complete details, [click here](#).

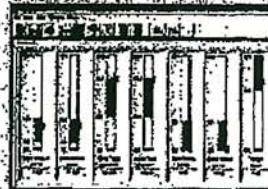
**III.** At a time when an increasing number of superintendents face critical water management and conservation issues, RZ-Wireless can reduce water usage by monitoring essential information in the soil, including temperature, moisture and salinity.

- Matt Shaffer was able to alter watering times after installing RZ-Wireless on three holes at Merion Golf Club. [Read more](#).
- For additional details about RZ-Wireless, [click here](#).

\*\* As a company built on honesty and integrity, we consider it our responsibility to advise prospective users of wireless soil monitoring sensors that did not come from Advanced Sensor Technology that to avoid patent infringement, Advanced Sensor Technology will be willing to offer licensing programs for a licensing fee.



Wireless Sensors in The Green



Superintendent Mobiles And Controls At Office



Wireless Mesh Network Transmits Information Across Course – Property Now Has It's Own Wireless Network

Advanced Sensor Technology • [www.advancedsensors.com](http://www.advancedsensors.com)

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**Buckley  
Exhibit 2**

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# Exhibit 3



# You're Invited



**WHAT** Advanced Sensor Technology invites you to share in an exclusive reception where company founder and president Walter Norley will make a brief but important announcement. Cocktails and hors d'oeuvres will be served.

**WHEN** Thursday January 31, 2008  
5:30 to 7:30 pm

**WHERE** Rosen Plaza Hotel \*  
9700 International Drive  
Orlando, Florida  
(adjacent to the Orange County Convention Center)  
Salon 13 on the Mezzanine level

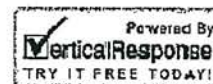
**RSVP** Please RSVP  
to Kathy Trick at EPIC Creative  
by Friday, January 25, 2008  
(262) 338-3700, Ext. 56  
ktrick@epicwi.com

\*Note: This is the ROSEN PLAZA HOTEL, not the Rosen Centre Hotel.

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**Buckley  
Exhibit 3**

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# Exhibit 4



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**If you are considering the use of wireless soil monitoring systems, here's something you need to know!**

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- As a company built on honesty and integrity, we consider it our responsibility to advise prospective users of wireless soil monitoring sensors that did not come from Advanced Sensor Technology that to avoid patent infringement, Advanced Sensor Technology will be willing to offer licensing programs for a licensing fee.

**At a time when an increasing number of superintendents face critical water management and conservation issues, RZ-Wireless reduces water usage by monitoring essential information in the soil, including temperature, moisture and salinity.**

- Matt Shaffer was able to alter watering times after installing RZ-Wireless on three holes at Merion Golf Club
- For additional details about RZ-Wireless please visit [www.AdvancedSensors.com](http://www.AdvancedSensors.com).



**Buckley  
Exhibit 4**

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